



**State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES**

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-2147 FAX (603) 271-6588



Montana Realty Trust
PO Box 416
Sandown, New Hampshire 03873

LETTER OF DEFICIENCY
WD WQE 03-05
June 20, 2003

Attn: Bob Villella

Re Site Specific Permit #WPS-6289
Wetlands Permit #2002-125
Riverbend Estates Subdivision,
NH Route 121A, Sandown, New Hampshire
Sandown Tax Map 14, Lot 5

Dear Mr. Villella:

On May 8, 2003, personnel from the Department of Environmental Services ("DES") conducted an inspection for the above referenced property. The purpose of the inspection was to determine compliance with RSA 485-A:17, Water Management and Protection Law and NH Code of Administrative Rules Ws 415 and compliance with RSA 485-A:17, Water Management and Protection Law and RSA 482-A, the New Hampshire Wetlands Law.

During the inspection, the following deficiencies were documented:

- 1 The construction is not in accordance with approved plans approved for the Wetlands Permit #2002-125. Specifically:
 - a. Excessive sediments have accumulated in wetlands and the conservation easement area due to unstabilized slopes/erosion located at station 8+50L. Approximately 228 sq. ft. (38 ft. x 6 ft.) of the wetland is filled with sediment. Approximately 175 sq. ft. (35 ft. x 5 ft.) of the conservation easement area is filled with sediment.
 - b. Excessive sediments have accumulated in a stream due to unstabilized slopes/erosion located at station 12+50L. Approximately 100 sq. ft. (20 ft. x 5 ft.) of the stream is filled with sediment.
 - c. Excessive sediments have accumulated in a stream due to unstabilized slopes/erosion located at station 12+50R. Approximately 100 sq. ft. (20 ft. x 5 ft.) of stream is filled with sediment.
 - d. Unauthorized fill in wetlands and within the conservation easement area has occurred in two locations on Lot 14-19-14/Wood Duck Circle. The first location entails approximately 400 sq. ft. (40 ft x 10 ft.) of unauthorized wetlands fill and the second location entails approximately 100 sq. ft. (10 ft. x 10 ft.) of unauthorized wetlands fill.

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- e. Approximately 1,000 sq. ft. (50 ft. x 20 ft.) of sediment have accumulated in wetlands within the conservation easement area due to erosion and unstabilized slopes located at the end of the cul-de-sac at Wood Duck Circle on Lot 14-19-16.
- f. Unauthorized fill of approximately 7,500 sq. ft. (100 ft. x 75 ft.) of an isolated wetland located at the end of the cul-de-sac at Wood Duck Circle on Lot 14-19-16 exceeding the approved Wetlands Permit.
- g. Excessive sediments have accumulated in wetlands due to unstabilized slopes/erosion located at station 1+50R (Lot 14-19-11/Wood Duck Circle). Approximately 2,000 sq. ft. (100 ft. x 20 ft.) of the wetland is filled with sediment.
- h. The owner has failed to survey the conservation easement area and mark the conservation easement area with monuments prior to construction as required by Wetlands Permit condition #22.

The owner has failed to install orange construction fencing at the limits of construction as required by Wetlands Permit condition #8.

The owner has failed to install signs every 150 ft. along the boundary of the conservation easement area to indicate the location and restrictions of the area as required by Wetlands Permit condition #23.

- k. The owner has encroached, removed vegetative undergrowth, and placed fill within the conservation easement area throughout the entire project area which is prohibited by Wetlands Permit condition #21. Specifically,
 - 1. The owner has encroached/disturbed approximately 20 ft. into the upland buffer of the conservation easement area located at station 11+00L (Lot 14-19-7/Riverbend Drive). In accordance with the approved plans, the upland buffer/no disturbance area at this location is supposed to be 50 ft.
 - 2. The owner has encroached/disturbed approximately 31 ft. into the upland buffer of the conservation easement area located at station 12+00L (Lot 14-19-7/Riverbend Drive). In accordance with the approved plans, the upland buffer /no disturbance area at this location is supposed to be 50 ft.
 - 3. The owner has encroached/disturbed approximately 50 ft. into the upland buffer of the conservation easement area located at station 12+50R (Lot 14-19-8/Riverbend Drive). In accordance with approved plans, the upland buffer/no disturbance area at this location is supposed to be 50 ft. From the thread of the stream to the edge of the dwelling (garage door) measured 50ft. The owner has failed to construct driveway in accordance with

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approved plans. Driveway supposed to be constructed at station 11+10R outside of the conservation easement area, however, driveway was constructed at station 12+50R within the conservation easement area.

4. The owner has encroached/disturbed approximately 40 ft. into the upland buffer of the conservation easement area located at station 2+50L (Lot 14-19-12/Wood Duck Circle). In accordance with approved plans, the upland buffer/no disturbance area at this location is supposed to be 50 ft.
 5. The owner has encroached/disturbed approximately 100 ft. into the upland buffer of the conservation easement area located at station 5+50L (Lot 14-19-14/Wood Duck Circle). In accordance with approved plans, the upland buffer/no disturbance area at this location is supposed to be 100 ft.
 6. The owner has encroached/disturbed approximately 100 ft. into the upland buffer of the conservation easement area located at the end of the cul-de-sac at Wood Duck Circle on Lot 14-19-16. In accordance with the approved plans, the upland buffer/no disturbance area at this location is supposed to be 100 ft.
2. The construction is not in accordance with approved plans approved for the Site Specific #WPS-6289. Specifically:
- a. The owner has in excess of 5 acres of open, unstable, and disturbed area within the project area.
 - b. The owner has started work on Phase II without completing work on Phase I.
 - c. The owner has failed to construct headwall within seven days of culvert installation located at station 8+50L in accordance with approved plans and as required by Wetlands Permit condition #11.
 - d. The owner has failed to construct stone check dams throughout Phase I in accordance with the approved plans. Phase I requires 43 stone check dams. None were constructed.
 - e. The owner has failed to construct level spreader located at station 8+88L in accordance with approved plans.
 - f. The owner has failed to construct level spreader located at station 13+49R in accordance with approved plans.
 - g. The owner has failed to construct level spreader located at station 13+80L in accordance with approved plans.

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- h. The owner has failed to construct outlet protection located at station 8+50L in accordance with approved plans.

The owner has failed to stabilize all exposed soil areas within 14 days of disturbance as required by Wetlands Permit condition #16.

In response, you are requested to take the following actions:

Wetland/Conservation Easement Area Restoration

1. Retain a qualified wetland consultant to generate a plan which depicts existing conditions of the unauthorized wetland fill areas and the conservation easement encroachment areas showing the topography of the areas and quantifies by field survey the current extent of disturbance in jurisdictional wetlands and conservation easement areas, and a restoration plan, as described below.
2. Submit both the existing conditions plan, and a restoration plan no later than **July 20, 2003** for review and approval including:
 - a. A plan with dimensions for the removal of a total of approximately 11,603 sq. ft. of fill in wetlands and regrading the disturbed area to original contours;
 - b. Planting plan for the stabilization of the removal area;
 - c. Planting plan for the restoration of the conservation easement areas;
 - d. Equipment and methods of erosion control (silt fence, hay bales, etc.);
 - e. Construction sequence and timetable for accomplishing remediation no later than **September 30, 2003**.
3. Submit the restoration plan for approximately 3,000 sq. ft. of unauthorized wetlands fill specifically referenced in Wetlands Permit condition #25 no later than **July 20, 2003** for review and approval.
4. Retain a qualified wetland consultant to supervise and execute the requests of this letter.
5. Execute the restoration plan immediately upon receipt of the restoration plan approval from the DES Wetlands Bureau.

Temporary Erosion Control Measures

6. Stabilize all of the slopes/disturbed areas that are at final grade throughout the entire project area by placing 4 inches of loam, seeding, and hay mulch, with the result of 85% to 90% vegetative cover, in accordance with approved plans by **July 20, 2003**.

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Stabilize all of the temporarily disturbed areas with seeding and hay mulch, with the result of 85% to 90% vegetative cover, that have been disturbed for greater than 30 days by **July 20, 2003**.

8. Construct the required amount of stone check dams throughout Phase I in accordance with approved plans by **July 20, 2003**.
9. Construct the level spreader located at station 8+88L in accordance with approved plans by **July 20, 2003**.
10. Construct the level spreader located at station 13+49R in accordance with approved plans by **July 20, 2003**.
11. Construct the level spreader located at station 13+80L in accordance with approved plans by **July 20, 2003**.
12. Construct the outlet protection located at station 8+50L in accordance with approved plans by **July 20, 2003**.

Other Measures

13. Voluntarily refrain from working on Phase II until Phase I is stabilized.
14. Install orange construction fencing at the limits of construction by **July 20, 2003**.
15. Install signs every 150 ft. along the boundary of the conservation easement area to indicate the location and restrictions of the area by **July 20, 2003**

DES also requests that a written status report for the above-mentioned items be submitted by **July 20, 2003**. The report may be addressed as follows:

David Price, Compliance Investigator
Wetlands Bureau/Site Specific
Department of Environmental Services
360 Corporate Drive
Suite 2
Portsmouth, NH 03801


RSA 482-A, the New Hampshire Wetlands Law and RSA 485-A:17, Water Management and Protection Law were enacted to protect and preserve wetlands, surface waters and alteration of terrain activities from unregulated despoliation.

Failure to comply with RSA 482-A and RSA 485-A:17 will result in enforcement by DES, including but not limited to the issuance of fines, administrative orders, or referral to the New

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Hampshire Office of the Attorney General for prosecution of civil or criminal penalties. If an order is issued to you, it may also be recorded with the Registry of Deeds as an encumbrance against your property. In addition, DES personnel may conduct another inspection at a later date to determine whether you have come into and are maintaining full compliance with the applicable statute and rules. Issuance of this letter shall not preclude further enforcement by DES.

Should you have any questions regarding this letter, please contact David Price at 433-6183 or e-mail him at dprice@des.state.nh.us.

Sincerely,

COPY
Dori Wiggin
for Coastal Supervisor
DES Wetlands Bureau

DAW/dap

CERTIFIED MAIL #7002 2410 0001 6279 1062

cc: Rene Pelletier, Manager, Land Resources Management Program
Mark Harbaugh, DES Legal Unit
Ridge Mauck, DES Site Specific
Steve Couture, DES Rivers Coordinator
Exeter River Local River Advisory Committee
Sandown Conservation Commission
Sandown Planning Board